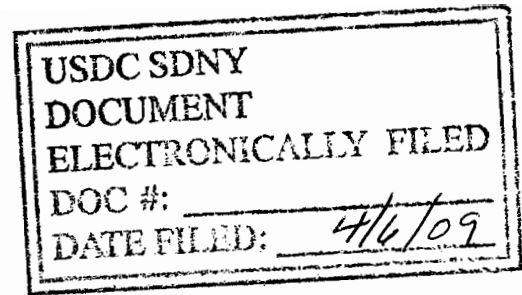


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



THE BANK OF NEW YORK, in its capacity as :
Indenture Trustee of the NextCard Credit Card :
Master Note Trust, :

Interpleader Plaintiff, :

v. :

FIRST MILLENNIUM, INC., MILLENNIUM :
PARTNERS, L.P., RMK ADVANTAGE :
FUND, and FEDERAL DEPOSIT :
INSURANCE CORPORATION, :

Interpleader Defendants. :

06-CIV-13388 CSH

MEMORANDUM

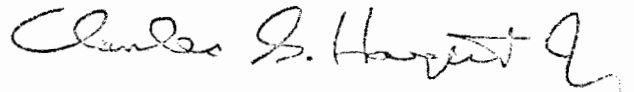
In a Memorandum Opinion and Order dated February 24, 2009, the Court decided cross-motions for summary judgment by the Interpleader Defendants in the captioned case. The parties were directed to settle an Order and Judgment consistent with that Opinion. Cross-judgments were noticed by the Interpleader Defendants. The Court scheduled a hearing by telephone conference for 11:00 a.m. today, April 6, 2009, to consider the cross-judgments.

Earlier this morning, counsel for the Millenium Interpleader Defendants telephoned Chambers and advised that the parties had agreed upon a form of Final Order and Judgment Regarding Interpleader Assets, which included a stay of execution pending appeal by Interpleader Defendant FDIC. The agreed upon instrument was faxed to the Court by counsel at 11:04 a.m. today.

In these circumstances, the hearing was cancelled, and the Court has endorsed for filing and entry the Order and Judgment in the form agreed upon by the parties.

Dated: New York, New York

April 6, 2009

A handwritten signature in black ink, reading "Charles S. Haight, Jr.", written over a horizontal line.

CHARLES S. HAIGHT, JR.
SENIOR UNITED STATES DISTRICT JUDGE